

Senate Bill No. 65

CHAPTER 633

An act to amend Section 13311.1 of, and to amend, repeal, and add Section 5924 of, the Government Code, to amend Section 2103.1 of the Streets and Highways Code, to add Section 12104 to the Welfare and Institutions Code, and to amend Section 39 of Chapter 12 of the Statutes of 2009 of the Third Extraordinary Session, relating to state finances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 19, 2009. Filed with
Secretary of State October 19, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 65, Committee on Budget and Fiscal Review. State finances.

(1) Existing law sets forth the duties and authority of the Treasurer generally in the sale of state bonds. Moneys are continuously appropriated from the General Fund in an annual amount necessary to pay all obligations, including principal, interest, fees, costs, indemnities, and all other amounts incurred by the state under or in connection with any credit enhancement or liquidity agreement entered into by the state, as specified, for bonds payable pursuant to an appropriation from the General Fund. Existing law prohibits the amount appropriated for these fees, costs, and other similar expenses from exceeding a percentage of the original principal amount of the bonds that is specified in the federal Internal Revenue Code.

This bill would, until June 30, 2013, instead increase that percentage by which those expenses are calculated to 3%, thereby making an appropriation.

(2) Existing law authorizes the Director of Finance to defer payments of General Fund moneys in July through September of 2009, in an amount not to exceed \$750,000,000, appropriated to the University of California in the Budget Act of 2009, as specified. Existing law also authorizes the director to defer payments of General Fund moneys in July 2009, in an amount not to exceed \$290,000,000, appropriated to the California State University in the Budget Act of 2009, as specified. Existing law specifies the schedule of payments for these deferred amounts.

This bill would additionally authorize the director to defer payments of General Fund moneys owed in February 2010, in an amount not to exceed \$250,000,000, appropriated to the University of California in the Budget Act of 2009. The bill also would authorize the director to defer payments of General Fund moneys owed in February 2010 in an amount not to exceed \$250,000,000, and owed in March 2010 in an amount not to exceed \$150,000,000, appropriated to the California State University in the Budget Act of 2009, as specified. The bill would specify a schedule of payments for these deferred amounts.

(3) Existing law defers, until October 2009, the disbursement of payments of General Fund moneys for July 2009, in an amount not to exceed \$200,000,000, appropriated to the Board of Governors of the California Community Colleges for apportionments to community college districts.

This bill would additionally defer, until May 2010, the disbursement of payments of General Fund moneys for March 2010, in an amount not to exceed \$100,000,000, appropriated to the board for apportionments to community college districts.

(4) Existing law requires state excise fuel tax revenues to be deposited in various accounts and to be allocated, in part, for various purposes, including the cost of collection and authorized refunds. Existing law requires the balance of these funds remaining after authorized deductions to be transferred to, and deposited monthly in, the Highway Users Tax Account in the Transportation Tax Fund. Existing law provides for annual and monthly apportionment by the Controller of specified revenues in the Highway Users Tax Account to cities, counties, and cities and counties for the transportation purposes authorized by Article XIX of the California Constitution. Existing law, pursuant to Chapter 23 of the Fourth Extraordinary Session of the Statutes of 2009, requires transfers of those revenues from the Highway Users Tax Account to counties or cities that would otherwise be made during certain months of 2009 to instead be deferred and made after January 1, 2010.

This bill would instead provide for the apportionments for the months of July and August of 2009 to cities, counties, and cities and counties to be paid in September 2009, and apportionments for November and December of 2009 and January, February, and March of 2010 to be paid on or within 2 working days of April 28, 2010, with specified exceptions. The bill would also authorize the affected local agencies to use specified transportation bond funds and other available funds to meet certain cash obligations.

(5) Existing law provides for the State Supplementary Program for the Aged, Blind and Disabled (SSP), which requires the State Department of Social Services to contract with the United States Secretary of Health and Human Services to, on behalf of the state, make combined state and federal payments to SSP recipients to supplement Supplemental Security Income (SSI) payments made available pursuant to the federal Social Security Act.

Existing law provides that the contract with the United States Secretary of Health and Human Services requires the state to pay the secretary an amount equal to expenditures made by the secretary as supplemental payments to SSP recipients less amounts payable by the federal government.

This bill would, upon the order of the Director of Finance, require the Director of Social Services to defer the above-described payments to the federal government in February 2010, and March 2010, and, instead, make payments for those months after April 20, 2010, but no later than May 31, 2010.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 5924 of the Government Code is amended to read:

5924. (a) (1) Notwithstanding Section 13340, there is hereby continuously appropriated without regard to fiscal years, from the General Fund in the State Treasury for the purpose of this chapter, an amount that will equal the sum annually as will be necessary to pay all obligations, including principal, interest, fees, costs, indemnities, and all other amounts incurred by the state under or in connection with any credit enhancement or liquidity agreement, as specified in paragraph (2), that is entered into by the state pursuant to this chapter for bonds payable pursuant to an appropriation from the General Fund.

(2) A credit enhancement or liquidity agreement subject to this section includes a credit enhancement or liquidity agreement that is in the form of a letter of credit, standby purchase agreement, reimbursement agreement, liquidity facility, or other similar arrangement.

(b) (1) If the agent for sale determines that the credit enhancement or liquidity agreement is expected to result in a lower cost of the borrowing for the bonds to which the credit enhancement or liquidity agreement pertains, the state may incur fees, costs, and other similar expenses under or in connection with any credit enhancement or liquidity agreement entered into by the state pursuant to this chapter.

(2) The amount appropriated pursuant to subdivision (a) for fees, costs, and other similar expenses incurred in connection with any credit enhancement or liquidity agreement, when expressed as a percentage of the original principal amount of the bonds to which the credit enhancement or liquidity agreement pertains, may not exceed 3 percent.

(3) The amount appropriated pursuant to subdivision (a) for interest incurred in connection with any credit enhancement or liquidity agreement, when expressed as a percentage of the outstanding principal amount of the bonds to which the credit enhancement or liquidity agreement pertains, may not exceed the interest rate percentage set forth in subdivision (d) of Section 16731.

(c) This section shall become inoperative on June 30, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 5924 is added to the Government Code, to read:

5924. (a) (1) Notwithstanding Section 13340, there is hereby continuously appropriated without regard to fiscal years, from the General Fund in the State Treasury for the purpose of this chapter, an amount that will equal the sum annually as will be necessary to pay all obligations, including principal, interest, fees, costs, indemnities, and all other amounts incurred by the state under or in connection with any credit enhancement or liquidity agreement, as specified in paragraph (2), that is entered into by the state pursuant to this chapter for bonds payable pursuant to an appropriation from the General Fund.

(2) A credit enhancement or liquidity agreement subject to this section includes a credit enhancement or liquidity agreement that is in the form of a letter of credit, standby purchase agreement, reimbursement agreement, liquidity facility, or other similar arrangement.

(b) (1) If the agent for sale determines that the credit enhancement or liquidity agreement is expected to result in a lower cost of the borrowing for the bonds to which the credit enhancement or liquidity agreement pertains, the state may incur fees, costs, and other similar expenses under or in connection with any credit enhancement or liquidity agreement entered into by the state pursuant to this chapter.

(2) The amount appropriated pursuant to subdivision (a) for fees, costs, and other similar expenses incurred in connection with any credit enhancement or liquidity agreement, when expressed as a percentage of the original principal amount of the bonds to which the credit enhancement or liquidity agreement pertains, may not exceed the percentage set forth in paragraph (1) of subdivision (g) of Section 147 of Title 26 of the United States Code enacted as of January 1, 2003.

(3) The amount appropriated pursuant to subdivision (a) for interest incurred in connection with any credit enhancement or liquidity agreement, when expressed as a percentage of the outstanding principal amount of the bonds to which the credit enhancement or liquidity agreement pertains, may not exceed the interest rate percentage set forth in subdivision (d) of Section 16731.

(c) This section shall become operative June 30, 2013.

SEC. 3. Section 13311.1 of the Government Code is amended to read:

13311.1. (a) Notwithstanding any other law, including, but not limited to, Section 13311, in order to achieve effective management of state cash resources, the Director of Finance may do both of the following:

(1) Defer payments of General Fund moneys owed in July through September of 2009, in an amount not to exceed seven hundred fifty million dollars (\$750,000,000), appropriated to the University of California in the 2009 Budget Act.

(2) Defer payments of General Fund moneys owed in February 2010, in an amount not to exceed two hundred fifty million dollars (\$250,000,000), appropriated to the University of California in the 2009 Budget Act.

(b) (1) Of the amount deferred pursuant to paragraph (1) of subdivision (a), the payment of two hundred fifty million dollars (\$250,000,000) shall be made in October 2009. The payment of the remaining amount deferred pursuant to paragraph (1) of subdivision (a) shall occur no earlier than April 2010 and at the earlier of (A) the day after all outstanding revenue anticipation notes issued by the state in the 2009–10 fiscal year have been repaid, as determined by the Director of Finance, or (B) June 30, 2010.

(2) The payment of the amount deferred pursuant to paragraph (2) of subdivision (a) shall be made no earlier than April 20, 2010, but no later than May 31, 2010.

(c) Notwithstanding any other provision of law, in order to achieve effective management of state cash resources, the Director of Finance may do both of the following:

(1) Defer payments of General Fund moneys owed in July 2009, in an amount not to exceed two hundred ninety million dollars (\$290,000,000) appropriated to the California State University in the 2009 Budget Act.

(2) Defer payments of General Fund moneys owed in February 2010, in an amount not to exceed two hundred fifty million dollars (\$250,000,000), appropriated to the California State University in the 2009 Budget Act.

(3) Defer payments of General Fund moneys owed in March 2010, in an amount not to exceed one hundred fifty million dollars (\$150,000,000), appropriated to the California State University in the 2009 Budget Act.

(d) (1) The payment of the amount deferred pursuant to paragraph (1) of subdivision (c) shall be made in October 2009.

(2) The payment of the amount deferred pursuant to paragraph (2) of subdivision (c) shall be made no earlier than April 20, 2010, but no later than May 31, 2010.

(3) The payment of the amount deferred pursuant to paragraph (3) of subdivision (c) shall be made no earlier than May 1, 2010, but no later than May 31, 2010.

SEC. 4. Section 2103.1 of the Streets and Highways Code is amended to read:

2103.1. (a) Notwithstanding any other law, the apportionment of revenues deposited to the credit of the Highway Users Tax Account in the Transportation Tax Fund that are otherwise required to be made, pursuant to this chapter, to cities, counties, and cities and counties for the following months shall be deferred and shall be made as follows:

(1) For the months of July and August of 2009, the apportionments shall be paid with the payment of August revenues in September 2009. This deferral shall not apply to a county with a population of less than 40,000.

(2) For the months of November and December of 2009, and January, February, and March of 2010, the apportionments shall be paid on or within two business days of April 28, 2010. This deferral shall not apply to a county with a population of less than 40,000.

(b) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a city, county, or city and county may make use of any cash balance in its account that is designated for the receipt of state funds allocated for local streets and roads or the county road fund, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code) for local street and road maintenance and operations, during the period of the deferrals of apportionment payments pursuant to subdivision (a). The use of this cash shall not be considered as an expenditure of bond act funds if the cash is replaced when the payments in subdivision (a) are made.

(c) Notwithstanding any other provision of law, for the purpose of meeting the cash obligations associated with ongoing street and road costs, a city, county, or city and county may make use of any cash balance available to a special fund of the city, county, or city and county during the period of deferral of apportionment payments pursuant to subdivision (a).

(d) This section shall not affect any requirement that an expenditure is required to be accrued and reflected from the appropriate funding source for which the money was received and that an expenditure is required to meet all the requirements of its funding source.

SEC. 5. Section 12104 is added to the Welfare and Institutions Code, to read:

12104. Notwithstanding any other provision of law, upon the order of the Director of Finance, the Director of Social Services shall defer all supplemental payments to the federal government required pursuant to subdivision (b) of Section 12100 in February 2010 and March 2010 and, instead, make payments for those months after April 20, 2010, but no later than May 31, 2010.

SEC. 6. Section 39 of Chapter 12 of the Statutes of 2009 of the Third Extraordinary Session, as amended by Section 17 of Chapter 23 of the Statutes of 2009 of the Fourth Extraordinary Session, is amended to read:

Sec. 39. (a) Notwithstanding Sections 84320, 84321, and 84321.5 of the Education Code and any other law that governs the regulations adopted by the Chancellor of the California Community Colleges to disburse funds, two hundred million dollars (\$200,000,000) from the payment of apportionments to districts pursuant to Sections 84320, 84321, and 84321.5 of the Education Code for July 2009 shall be deferred to October 2009.

(b) Notwithstanding Sections 84320, 84321, and 84321.5 of the Education Code and any other law that governs the regulations adopted by the Chancellor of the California Community Colleges to disburse funds, one hundred million dollars (\$100,000,000) from the payment of apportionments to districts pursuant to Sections 84320, 84321, and 84321.5 of the Education Code for March 2010, shall be deferred to May 2010.

(c) Notwithstanding any other law, one billion dollars (\$1,000,000,000) from the payment of apportionments pursuant to Section 14041 of the Education Code for July 2009, to local educational agencies that maintain kindergarten and any of grades 1 to 12, inclusive, shall be deferred to December 2009.

(d) Notwithstanding any other law, one billion five hundred million dollars (\$1,500,000,000) from the payment of apportionments pursuant to Section 14041 of the Education Code for August 2009, to local educational agencies that maintain kindergarten or any of grades 1 to 12, inclusive, shall be deferred to October 2009.

(e) Notwithstanding any other law, one billion dollars (\$1,000,000,000) from the payment of apportionments pursuant to Section 14041 of the Education Code for November 2009, to local educational agencies that maintain kindergarten and any of grades 1 to 12, inclusive, shall be deferred to January 2010.

(f) (1) Notwithstanding subdivisions (c), (d), and (e), and subject to the approval of the Director of Finance, the Controller shall issue warrants pursuant to Section 14041 of the Education Code that include the full amount of the apportionment payments for the months of July, August, and November for a local educational agency for which the county superintendent of schools certifies to the Superintendent of Public Instruction and to the Director of Finance on or before August 10, 2009, that the deferral of warrants pursuant to subdivisions (c) and (d) will result in qualifying the local educational agency for an emergency apportionment pursuant to Article 2 (commencing with Section 41320) of Chapter 3 of Part 24 of Division 3 of Title 2 of the Education Code.

(2) In order for a county office of education to receive payments pursuant to paragraph (1), the Superintendent of Public Instruction shall determine, and notify the Director of Finance on or before August 10, 2009, that the deferral of warrants pursuant to subdivisions (c) and (d) will result in the county office of education being unable to meet its expenditure obligations for the time period during which warrants are deferred. The criteria, as applicable, set forth in statute and regulations to qualify a school district for an emergency apportionment shall be used to make the determination specified in this section.

(3) In order for a charter school to receive payments pursuant to paragraph (1), the chartering authority shall determine, in consultation with the county superintendent of schools, and notify the Superintendent of Public Instruction and the Director of Finance on or before August 10, 2009, that the deferral of warrants pursuant to subdivisions (c) and (d) will result in the charter school being unable to meet its expenditure obligations for the time period during which warrants are deferred. The criteria, as applicable, set forth in statute and regulations to qualify a school district for an emergency apportionment shall be used to make the determination specified in this section.

(g) Notwithstanding subdivision (a) and subject to the approval of the Director of Finance, the Controller shall issue warrants pursuant to Sections 84320, 84321, and 84321.5 of the Education Code that include the full amount of the apportionment payments for the month of July for a community college for which the Chancellor of the California Community Colleges determines, in consultation with the Director of Finance, on or before August 10, 2009, that the deferral of warrants pursuant to subdivision (a) will present an imminent threat to the fiscal integrity and security of the community college.

(h) This section shall apply to payments in the 2009–10 fiscal year only.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the state may meet its financial obligations and to enable the state to market debt issuances, thereby improving the state's fiscal status, it is necessary that this act take effect immediately.